



New Jersey Department of Children and Families Policy Manual

Manual:	DCF	DCF Wide	Effective Date:
Volume:	III	Administrative Policies	
Chapter:	B	Americans with Disabilities Act	1-28-2009
Subchapter:	1	Americans with Disabilities Act	
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I. PURPOSE

The purpose of this Policy is:

To designate an Americans with Disabilities Act (ADA) Coordinator of the Office of Human Resources, Department of Children and Families (DCF) and to define the duties thereof.

To establish procedures, in accordance with State and Federal statute and the interpretive regulations, for the receipt and timely response to requests for reasonable accommodation by an employee or applicant with a disability. This policy does not address DCF's accommodation of its clients.

To establish guidelines for the confidential treatment of the medical records of employees and applicants requesting a reasonable accommodation.

II. SCOPE

This policy establishes guidelines in accordance with the New Jersey Law Against Discrimination (NJLAD) and the ADA and their interpretive regulations, to be followed by management throughout the Department when receiving and responding to requests for reasonable accommodation made by an otherwise qualified employee or applicant with a disability. It is not intended to enlarge or diminish the scope of any required process as stated in applicable State or Federal statutes, rules, regulations, or collective bargaining agreements. With respect to requests for leave from employment, management is further directed to the Department's procedures addressing family and/or medical leave.

III. LEGAL AUTHORITY

N.J.S.A. 10:5 -1 to -42 NJLAD

N.J.A.C. 13:13-2.1 et seq. Regulations Pertaining to Discrimination on the Basis of Disability, Employment

28 CFR 35.104. Non-Discrimination on the Basis of Disability in State and Local Government Services
42 U.S.C. Section 12101. Equal Opportunity for Individuals with Disabilities

IV. POLICY

It is the policy of the Department of Children and Families to provide reasonable accommodation based on the provisions of the NJLAD and the ADA and the interpretive regulations.

All staff, both present Department employees and new job applicants applying for an ADA accommodation, must be capable of performing the essential duties and functions of the job in question with or without a reasonable accommodation.

The NJLAD provides that it is an unlawful employment practice to deny to an otherwise qualified person with a disability the opportunity to obtain or maintain employment, or to advance in position in his job, solely because such person is a person with a disability. See N.J.S.A. 10:5-29.1. All employment procedures must be conducted to provide individuals with disabilities equal consideration with hiring, advancement, discharge, compensation, training, and other conditions and privileges of employment. See N.J.A.C. 13:13-2.5(a).

Further, the regulations governing the ADA prohibit covered entities from discriminating against qualified individuals with disabilities because of the disability in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment. See the Americans with Disabilities Act of 1990, Title 42 of the United States Code, Chapter 26, Subchapter I.

V. RESPONSIBILITIES

A. Designated Department of Children and Families (DCF) ADA Coordinator:

There shall be a designated DCF ADA Coordinator for human resource matters located within the Office of Human Resources, Department of Children and Families. All DCF Divisions' ADA decisions and rulings will be determined by the DCF ADA Coordinator. The responsibilities of the DCF ADA Coordinator shall include:

1. Receiving requests for accommodation and coordinating the timely processing and response thereto;
2. Initiating and participating in an "interactive process" with an individual who requests a reasonable accommodation to determine whether an accommodation is needed to perform the essential functions of the job and, if so, whether a reasonable accommodation can be made.

3. Assisting individuals, if necessary, in completing the Confirmation of Request for Reasonable Accommodation Form, Attachment 1;
4. Determining whether or not there is sufficient medical documentation to establish that the individual has a qualifying disability and/or that the disability requires an accommodation;
5. Assisting managers/supervisors in identifying the essential job functions under ADA and in completing the Essential Functions Worksheet, Attachment 2. In general, a function is “essential” if:
 - the position exists to perform the function; or
 - there are a limited number of employees available to perform the function; or
 - the function is highly specialized.
6. Consulting, when necessary, with management/supervision regarding a proposed response to a request for reasonable accommodation.
7. Issuing to the employee or applicant requesting the accommodation, a written determination regarding the requested accommodation.
 - a. For approved reasonable accommodations, the DCF ADA Coordinator shall issue to the individual requesting the accommodation notification consistent with the Reasonable Accommodation Approval Letter, Attachment 3. For a denial of a reasonable accommodation, the DCF ADA Coordinator shall issue to the individual requesting the accommodation notification consistent with the Reasonable Accommodation Denial Letter, Attachment 4.
8. Retaining for a period of not less than five years, copies of all of the documentation regarding the request for reasonable accommodation.
9. Providing a quarterly report to the DCF Office of Equal Employment Opportunity and Affirmative Action (EEO/AA) of all accommodation requests received and the disposition of same. The Reasonable Accommodation Information Reporting Form, Attachment 5, should be attached to the Quarterly Report.
10. Ongoing monitoring, where appropriate, of the effectiveness of the reasonable accommodations that have been implemented.
11. Ensuring that all managers/supervisors are aware of the ADA Policy and Procedures and distributing said policy to all managers/supervisors.

12. Designating a “backup” DCF ADA Coordinator who, in the Coordinator’s absence, will receive and coordinate a timely response to requests for reasonable accommodation.
13. Consulting with the DCF Office of Legal Affairs, as needed, regarding requested accommodations and the process.

B. Supervisors/Managers/Interviewers

The responsibilities of supervisors, managers, or others who interview a staff member requesting an accommodation in the workplace shall include:

1. Receiving requests for reasonable accommodation and immediately forwarding such requests to the DCF ADA Coordinator. Supervisors/managers/interviewers shall not render determinations on requests for accommodation.
2. Assisting employees and applicants, if necessary, in completing the Confirmation of Request for Reasonable Accommodation form, Attachment 1.
3. Identifying, in consultation with the DCF ADA Coordinator, the essential functions of the job for which an employee or applicant is requesting an accommodation, with particular attention paid to the actual functions of the job performed or to be performed.
4. Providing the ADA Coordinator all relevant job related information, including the operational needs of the work unit and how a requested accommodation may impact operational needs.
5. Upon direction from the DCF ADA Coordinator, participating in the “interactive process” to help identify and effective accommodation.

C. Applicant/Employee Responsibility

1. Making known that an accommodation is needed to participate in the application process, perform essential job functions, or to receive equal benefits and privileges of employment. The employee/applicant does not have to specifically request a “reasonable accommodation” but does need to make known that an adjustment or assistance is needed.
2. Providing, when so requested, appropriate medical documentation concerning the medical condition(s) as well as timely responses to questions regarding his/her medical condition, utilizing Attachment 6, Request for Medical Documentation “Sample Letter” and signing a

narrowly tailored Authorization to Disclose Protected Health Information form, Attachment 7.

3. Following approval for their accommodation request, providing an updated Authorization to Disclose Protected Health Information form and current medical documentation every three (3) months, if necessary and requested by the ADA Coordinator.

D Office of Legal Affairs

1. Questions regarding reasonable accommodations, the release of confidential employee or applicant medical information, or compliance with the NJLAD and/or ADA or any other State or Federal laws or policies prohibiting discrimination on the basis of disability, shall be directed to and coordinated by the Department's Office of Legal Affairs.

VI. PROCEDURES – REASONABLE ACCOMMODATION

A. Background

Pursuant to the regulations governing the NJLAD, an employer must make a reasonable accommodation to the limitations of an employee or applicant with a disability unless the employer can demonstrate that the accommodation would impose an undue hardship on the operation of its business.

Examples of reasonable accommodation may include: making facilities readily accessible and usable by people with disabilities, job restructuring, modified work schedules, acquisition or modification of equipment, job reassignment, and other such actions, as appropriate.

An employer shall consider the possible need for a reasonable accommodation before firing, demoting, or refusing to hire or promote a person with a disability on the grounds that his /her disability precludes job performance.

See N.J.A.C. 13:13-2.5(b).

B. Procedures for Making and Responding to Requests for Reasonable Accommodations.

1. An employee or job applicant generally initiates the process by making a request for a reasonable accommodation to their supervisor, manager, or the DCF ADA Coordinator. In the case of a job applicant, requests should be made to the interviewer or the Department's Office of Human Resources.

2. It is generally the obligation of the employee or applicant with a disability to request a reasonable accommodation. Management may ask and individual with an obvious disability [e.g. an individual who requires the use of a wheelchair] about the need for a reasonable accommodation.
3. An employee or job applicant making a request for a reasonable accommodation should be instructed by the supervisor, manager, or interviewer, to complete and return, as soon as possible, a Confirmation of Request for Reasonable Accommodation Form, Attachment 1. However, requests for reasonable accommodation do not have to be in writing nor do the words “reasonable accommodation” have to be used in order to trigger the interactive process.
 - a. If the individual is unable to complete the request for accommodation form, assistance should be provided by the ADA Coordinator and presented to the individual for verification and signature.
 - b. The processing of requests for accommodation should be acted upon on receipt of a verbal request and should not be delayed in order to wait for written confirmation.
4. The supervisor/manager/interviewer receiving the request for accommodation should, as soon as possible, refer the request to the DCF ADA Coordinator for timely coordination and processing of the request and a response thereto. Supervisors, managers, and/or interviewers should not unilaterally render determinations on requested accommodations.
5. A family member, health professional, or other representative may request an accommodation on behalf of an employee or applicant, directing the request to the ADA Coordinator.
6. The DCF ADA Coordinator shall, as soon as possible, engage in an “interactive process” with the individual to establish a dialogue between management and the individual requesting the accommodation in order to determine whether an accommodation is necessary and if so, to identify an effective reasonable accommodation. The ADA Coordinator and supervisor/manager will have the responsibility for identifying an effective reasonable accommodation with input from the individual. While individuals are not necessarily entitled to the accommodation they seek, they are entitled to a reasonable accommodation. A reasonable accommodation is one that does not cause the employer undue hardship and that allows the individual to effectively perform the essential functions of the job.

7. DCF has a right to know if an individual requesting a reasonable accommodation has a condition that qualifies as a disability under the NJLAD and/or the ADA and whether an accommodation is necessary. DCF may require the individual requesting an accommodation to have his/her physician provide a timely response to a series of questions regarding the individual's medical condition and associated limitations (See Attachments 6 and 7). Where the disability is obvious or already known to the Department, the individual generally will not be required to produce medical documentation of the disability.
8. If a job applicant has an obvious disability or voluntarily discloses information regarding a disability prior to a conditional offer of employment, and the employer reasonably believes that the applicant will not be able to perform an essential job function, the employer may ask the applicant to describe how he/she would perform the essential job function.
9. Determinations regarding the requested accommodation should be made as soon as practicable. If a request for a reasonable accommodation is approved, the DCF ADA Coordinator shall issue a Reasonable Accommodation Approval Letter, Attachment 3. If the request for accommodation is denied, the DCF ADA Coordinator shall issue to the requesting individual a Reasonable Accommodation Denial Letter, Attachment 4.
10. Upon completion of the reasonable accommodation request process, the DCF ADA Coordinator shall complete and maintain a Reasonable Accommodation Information Reporting Form, Attachment 5, with a copy of this reporting form being sent to the DCF Office of EEO/AA and the original maintained by the DCF ADA Coordinator. These forms should be sent to the DCF Office of EEO/AA quarterly

VII. CONFIDENTIALITY

All medical information/records of individuals seeking a reasonable accommodation shall be treated as confidential and shall be maintained in a confidential medical file separate from other personnel records.

- A. All medical related information must be kept confidential with the following exceptions:
 1. Supervisors and managers may be informed about necessary restrictions in the work or duties of an employee and necessary accommodations.

2. First aid and safety personnel may be informed if the disability might require emergency treatment or if any specific procedures are needed in the case of fire or evacuation.
 3. Relevant information may be provided to government officials investigating an employee complaint regarding compliance with the NJLAD or ADA or any other State or Federal laws.
 4. Relevant information may be provided to State Workers' Compensation offices in accordance with State Workers' Compensation Laws.
 5. Relevant information may be provided in response to a duly executed court order. (Note: The Department's Office of Legal Affairs should be contacted for legal advice prior to the release of any medical information/records of an employee or applicant).
- B. Whenever medical information is disclosed, in accordance with the above listed exceptions, the disclosing party shall inform the recipients of the confidentiality requirements in regards to the information.

VIII. TRAINING

- A. The training for the DCF ADA Coordinator will be coordinated by the Office of Legal Affairs.
- B. Training on the ADA Policy for DCF managers/supervisors will be coordinated by the DCF ADA Coordinator

IX. DISCRIMINATION POLICY

- A. Any employee believing that he or she has been subjected to any form of discrimination as a result of their disability or filing of an accommodation request, should be advised of the appropriate procedures for filing a complaint in accordance with the New Jersey Policy Prohibiting Discrimination in the Workplace, to the Department's Office of EEO/AA.
- B. The ADA Coordinator, managers, and/or supervisors should immediately report all alleged violations of the State Policy Prohibiting Discrimination in the Workplace, whether reported by an employee or observed directly, to the DCF Office of EEO/AA.

Date

Kimberly S. Ricketts
Commissioner

Attachments:

1. [Confirmation of Request for Reasonable Accommodation Form Attachment 1](#)
2. [Essential Functions Worksheet \(3 pgs.\) Attachment 2](#)
3. [Reasonable Accommodation Approval Letter Attachment 3](#)
4. [Reasonable Accommodation Denial Letter Attachment 4](#)
5. [Reasonable Accommodation Information Reporting Form Attachment 5](#)
6. [Request for Medical Documentation "Sample Letter" Attachment 6](#)
7. [Authorization to Disclose Protected Health Information Attachment 7](#)